

# California Whale Entanglement Discussion

## Dungeness Crab Fishing Gear Working Group Charter

*Drafted August 2015; Updated June 2016, Finalized July 2016; Updated March 2019*

### Background

In April 2015, the California Dungeness Crab Task Force (DCTF) was informed of increasing trends in large whale entanglements, as reported by the National Marine Fisheries Service (NMFS). On August 20, 2015 the Ocean Protection Council (OPC), California Department of Fish and Wildlife (CDFW), and NMFS hosted a meeting focused on sharing information between agencies, fishermen, environmental organizations, and others. A cross-interest Dungeness Crab Fishing Gear Working Group (Working Group) was convened to further discuss and develop short-term strategies and begin exploring long-term options for reducing the risk of whale entanglements in California Dungeness crab fishing gear. Information about the Working Group's activities through October 2015, including short-term recommendations that were agreed to, is available at <http://www.opc.ca.gov/whale-entanglement-working-group/>.

Between October 2015 and May 2016, the Working Group paused its activities. Additional funding was sought to continue Working Group administrative and facilitation support, and the California Dungeness crab fishing season was delayed due to unprecedented levels of domoic acid. In May 2016, new funding was secured and steps were taken to reconvene the Working Group. This document serves as the Working Group's updated charter to guide work conducted between July 2016 to July 2017.

### Section I. Charge

*The Working Group's charge builds on information outlined in the "Dungeness Crab Fishing Gear Working Group—Outline and Tasks" document developed in September 2015, available online [here](#). All references to the Dungeness crab fishery/industry considers both recreational and commercial fishing communities.*

The Working Group supports thriving whale populations along the West Coast, and a thriving and profitable Dungeness crab fishery. In cooperation with a facilitation team (Strategic Earth Consulting) and staff from the CDFW, NMFS and OPC, the Working Group will:

- Provide guidance and recommendations to the California Dungeness crab fishing industry, including the DCTF, about how to avoid/minimize entanglements and identify measures or experiments that can be developed or implemented by the fishing community to address the entanglement issue;
- Collaboratively inform and guide the state of California (CDFW, OPC, Fish and Game Commission, and the Legislature) in addressing key information gaps and/or measures to reduce the risks of entanglements in Dungeness crab fishing gear; and
- Guide whale entanglement reduction efforts by establishing priorities for the Working Group, and help inform other entities seeking to address the issue of whale entanglements in California.

Working Group participants will not debate the merits of entanglements or whether efforts should be made by the Dungeness crab industry or state and federal agencies to reduce the potential for whale entanglements. Rather, the Working Group will act as a forum and process to support an open line of

communication amongst fishermen, state and federal agencies, and environmental groups to exchange information and ideas, build partnerships, and create a foundation for a long-term approach for reducing the risk of whale entanglements. Additionally, Working Group participants will be responsible for conducting outreach to constituent groups for feedback and insights on option(s) development.

## **Section II. Objectives and Priorities**

In cooperation with a facilitation team and staff from the CDFW, NMFS, and OPC, the Working Group will work to advance the objectives and priorities outlined below. *Objectives* are the steps needed to reach the Working Group's charge. *Priorities* are areas identified by state and federal partners that require Working Group consideration.

### **A. Working Group Objectives**

The Working Group has identified a number of objectives to guide its efforts over the coming year. When possible, the Working Group will aim to connect across objectives to maximize efficiency and coordination. The Working Group and its Implementation Teams will further prioritize objectives and related tasks, and identify specific timeframes and/or deadlines associated with key deliverables.

Draft 2016 proposed objectives include:

- Analyze available entanglement and fisheries data to help identify trends in gear set-up, trap location and depth, line profile details, etc. related to entanglements, as well as interpret whale entanglement patterns and co-occurrence potential;
- Prioritize data needs and develop a process to utilize Working Group expertise to support the interpretation of new/existing data;
- Design, solicit funding (as needed), and implement short-term test projects related to enhanced data collection and gear modifications to be piloted during the 2016-17 fishing season, with attention to drawing upon fishermen's experience and knowledge;
- Reconfirm Implementation Team's areas of focus related to voluntary and/or regulatory actions and develop goals, key tasks/deliverables, metrics, and associated timeline for priority projects;
- Develop approach to continuing the efforts of the Working Group/Implementation Teams and accomplishing projects/recommendations if faced with delays to the season opener, or other unforeseen circumstances;
- Coordinate additional trainings for fishermen to be first responders as part of the disentangle-ment network to help improve outcomes for entangled whales; and
- Identify communications pathways with target audiences to share Working Group recommendations, encourage widespread participation of voluntary actions, and broadly distribute key messaging and communications products (e.g. Best Practices Guide) and be responsive to in-season events.

### **B. CDFW and NMFS Priorities**

Draft 2016 CDFW priorities include:

- Identify information needed to minimize impacts to large whales from California fisheries;

- Identify practical and effective measures to minimize the risk of whale entanglements;
- Continue improving data gathering on large whale entanglements and efforts to understand entanglement sources and impacts. Ensure that methods and information collected will accomplish this goal and that metrics of success can be established;
- Engage the fishing community, state managers, and other interested stakeholders to understand and develop measures to minimize risks/severity of whale entanglements on the West Coast;
- Develop mechanisms to track the efficacy of voluntary measures; and
- Determine a process to expand the efforts of the working group to other state fisheries.

Draft 2016 NMFS priorities include:

- Satisfy needs of Working Group to review/analyze entanglement data;
- Discuss current or promising initiatives regarding specific topics/priorities/recommendations made by Working Group in 2015 (e.g. Bycatch Reduction Engineering Program (BREP) funding and gear profile research, fishing effort data collection);
- Discuss potential strategies for minimizing entanglements, both short-term, long-term, voluntarily/advisory, regulatory, etc.;
- Discuss specific proposals to address key unknowns and information deficits, facilitate research and/or idea development to collect missing information and test ideas to reduce entanglement risk, and identify entities capable of pursuing and accepting funding for potential project ideas;
- Provide outreach to the community about the overall issue of whale entanglements in California waters, including progress and priorities of Working Group; and
- Start thinking about how to integrate other California fixed gear fisheries into discussion of overall California approach to addressing entanglement issue.

### **Section III. Composition**

The Working Group is composed of 21 individuals and comprised of commercial and recreational fishermen, representatives from environmental organizations, researchers, entanglement responders, and federal and state agencies. Since 2015, the Working Group has grown to include additional commercial fisherman from particular areas, a fishing gear manufacturer or distributor, and a member of the whale disentanglement network.

The selection of the Working Group is at the discretion of the CDFW Marine Region Manager. In comprising the Working Group, the Region Manager considered a range of criteria including professional expertise, diversity of perspectives and ability to convey the interests of others, capacity to work constructively and collaboratively, and geographic location (see solicitation process document as appendix to this document). All Working Group participants must have an active email address and phone number.

## Working Group Participants

First Name	Last Name	Affiliation	Location
Jim	Anderson	Commercial Fishing	Half Moon Bay
Ryan	Bartling	CDFW Marine Region	
LCDR Jason	Brand	US Coast Guard	
Tom	Dempsey	The Nature Conservancy	Monterey Bay Area
Calder	Deyerle	Commercial Fishing	Monterey Bay Area
Tom	Estes	Commercial Fishing	Fort Bragg
Gerry	Hemmingson	Commercial Fishing	Crescent City
Morgan	Ivens-Duran	CDFW Marine Region	
Doug	Laughlin	Coastside Fishing Club	Santa Cruz
Dan	Lawson	NMFS	
Kathi	Koontz	Whale Disentanglement Network	Monterey
Tom	Mattusch	Commercial Passenger Fishing Vessel	Half Moon Bay
John	Mellor	Commercial Fishing	San Francisco
Brian	Nolte	Commercial Fishing	Oregon
Dick	Ogg	Commercial Fishing	Bodega Bay
Kevin	Pinto	Commercial Fishing	Eureka
Phil	Pritting	Fishing Gear Manufacturer/ Distributor	Eureka
Andy	Roberts	CDFW Enforcement	
Lauren	Saez	NMFS	
Geoff	Shester	Oceana	Monterey
Andrea	Treece	Earthjustice	Oakland

### **Advisors**

Select individuals with additional expertise or perspective beyond Working Group participants may be invited to inform Working Group discussions (e.g., legislative or agency staff, fishing gear manufacturer/distributor, data analysts, etc.). In these cases, the facilitation team will invite these individuals to participate in Working Group meetings and/or conference calls to provide advice, perspectives, and insights as needed. These individuals may help inform the Working Group recommendations, but will ultimately not be included in the consensus needed to make a recommendation.

### **Implementation Teams**

Comprised of a subset of Working Group participants, Implementation Teams were developed during the October 2015 Working Group meeting to continue investigating and testing ideas between Working Group meetings. Each Working Group participant is required to participate on at least one Implementation Team.

Each Implementation Team will aim to gain a better understanding of the dynamics of whale entanglements to help reduce the risk. Implementation Team identified in July 2016 are as follows:

- Data Review
- Gear Modification
- Enhanced Reporting (aerial surveys, co-occurrence, electronic reporting)
- Communications (trainings, best practices guides)

A leader for each team has been self-identified and will coordinate discussions and actions including goals and objectives, priority projects, proposal development, etc. Implementation Team leads will share updates on the team's activities with the broader Working Group for feedback. Implementation Team participants (including leads) are indicated in table above.

Regularly scheduled calls will be held with each Implementation Team to provide focused attention to each topic. The Working Group will be informed once an Implementation Team meeting/ conference call agenda has been set. All work, suggestions, and ideas of the Implementation Teams will be reported back to the full Working Group for consideration. Agreement within or across Implementation Teams is not necessarily an endorsement of the full Working Group. Implementation Teams discussions and ideas are intended to inform Working Group efforts (see below for information on Working Group decision-making procedures). Ideas generated by Implementation Teams may be carried out by individual(s) and/or small groups comprised of Working Group participant outside of the Working Group; these will not be considered Working Group product(s).

## **Section IV. Procedures**

### **D. Ground Rules**

Working Group participants agree to:

- Contribute to a constructive dialogue at each call/meeting, which may involve additional work between meetings including reading materials, connecting with the facilitation team, and outreach to constituents;
- Arrive at each meeting prepared to discuss agenda items. This includes reviewing materials and information distributed in advance of the meeting or conference call;

- Engage in a cross-interest dialogue focused on working with other Working Group participants to support constructive discussions focused on interests rather than fixed positions;
- Represent the perspectives and interests of his/her respective constituencies and or organizations, listen for understanding and openly discuss issues with others who hold diverse views;
- Acknowledge and seek clarification of others' perspectives and verify assumptions when necessary; and
- Negotiate with other Working Group participants using a mutual gains approach to evaluate and decide among proposed options and various alternatives.

#### **E. Recommendation-Making Procedures**

All Working Group recommendations will be shared directly with CDFW, NMFS, OPC, the California Legislature and the DCTF. In addition to making recommendations available on the OPC website, other audiences may be identified by the Working Group to share Working Group recommendations on an individual basis.

Working Group recommendations will be made by consensus. Consensus is based on principles of “consensus with accountability” and is a collective agreement towards a recommendation or course of action. This means that participants must try to reach consensus while at all times supporting and expressing his/her self-interest. If a participant cannot support an option or recommendation, then they are responsible for proposing an alternative that legitimately attempts to achieve their interest and the goals of the Working Group. In efforts to reach consensus, all voices will be heard and creative solutions will be sought to resolve issues and craft options that encompass the diversity of viewpoints. During the course of reaching consensus, a “minority” view or views may become apparent. The Working Group will seek to address and acknowledge minority viewpoints that have been expressed.

The facilitation team will schedule meetings in a fashion to maximize full Working Group attendance. However, in the case where full Working Group meetings or calls do not have full attendance, consensus reached will be deemed *full consensus* of the Working Group and recommendations will move forward. The facilitation team will work with Working Group participants to ensure meeting composition has broad participation, and actions and/or recommendations that are arrived at are inclusive. Recommendations/ideas that *do not have full consensus* will still be reflected in the key themes summaries (and other Working Group products). In some cases state and federal representatives may recuse themselves from weighing in on Working Group products; this will not prevent a consensus product from moving forward.

Between Working Group meetings/calls, email communication will be utilized to gain consensus on written products. The facilitation team will make every effort possible to follow up with Working Group participants on consensus-based actions ( i.e., direct phone calls) to uphold inclusivity.

#### **F. Attendance and Anticipated Meeting Schedule**

Participants are expected to serve continuously from June 2016 through July 2017, and to their best ability are expected to attend all in-person meetings and full Working Group conference calls. Each participant has the option to select an “observer” to attend conference calls and meetings. This individual will be consistent through July 2017, and will not have any role in the recommendation making process.

Meetings are not open to the public and attendance by individuals other than Working Group participants listed in the table above (including advisors) is at the discretion of the facilitation team.

The following details the anticipated Working Group schedule for June 2016-July 2017:

### ***In-Person Meetings***

Participants are expected to attend all regular meetings of the group. Three (3) in-person meetings are anticipated to be held in Santa Rosa:

- Wednesday, July 13 and Thursday, July 14, 2016
- Wednesday, September 21 and Thursday, September 22, 2016
- April 2017, Dates TBD

Meetings are anticipated to run 10:00am-4:30pm on the first day and 8:00am-1:00pm on day two.

### ***Conference Calls- Full Working Group***

A discrete number of conference calls are also required with the full working group in anticipation of in-person meetings.

- Thursday, June 22, 2016: 9am-11am
- Thursday, September 1, 2016: 9am-11am
- Thursday, March 23, 2017: 9am-11am

Dates are subject to change at the discretion of the facilitation team.

### ***Conference Calls- Implementation Teams***

Implementation Team calls will be held on a rotational or as-needed basis, and will generally occur on the 3rd Thursday of every month at 10:00 AM, unless otherwise noted by the facilitation team. The facilitation team will work with Implementation Team leads to convene the meeting based on the urgency of the topic. The schedule of calls to be confirmed is:

- 2016: May 12, May 31, July 29, August 18, October 20, December 15
- 2017: January 19, February 16, March 16, April 20, May 18, June 15

Dates are subject to change at the discretion of the facilitation team. The facilitation team will work with Working Group participants and associated agencies to develop meeting and call agendas, summaries, next steps documents, etc. Additionally, the facilitation team will work with meeting presenters and others to develop and prepare meeting materials. Call-in information, meeting agenda, and meeting materials will be circulated to all Working Group participants in advance of the calls.

### **G. Travel Reimbursements**

There is a limited travel reimbursement budget available to cover associated expenses for Working Group participants. This available funding is intended to provide financial support to those participants who do not receive travel reimbursements by their place of employment for attending in-person Working Group meetings. Participants must submit a request to the facilitation team via email seven (7) days

prior to a scheduled meeting. Disbursement of travel funds will be at the discretion of the facilitation team and will be based on distance travelled, etc.

#### **H. Communications Protocols and Information Sharing**

To achieve its goals and objectives, the Working Group is committed to transparency and open lines of communication across participants, as well as with their peers.

Between or in preparation for meetings, the Working Group may receive materials such as meeting agendas and notes, Implementation Team updates, entanglement and related data, project proposals and results, and draft key findings or recommendations memos. All information received is considered public. The Working Group will work collaboratively to identify how/when information is shared with peers, and will work with the intention to share materials externally through unified communications and messaging. This may include, but is not limited to, developing joint announcements, press releases, blog and social media posts, etc. Working Group participants will act in good faith to communicate with the Working Group their ideas for how to share information, and will extend invitations to have information sharing be a Working Group “product”.

Working Group participants are responsible for keeping their peers, interest groups, and/or organizations informed about Working Group process, discussions, and recommendations through various means of networking and interaction, as appropriate. This communication should align with Working Group communication protocol. In circumstances where there is not a unified Working Group message, participants will use their best judgement of how and when to distribute information to their peers.

Working Group participants may provide their perspectives to peers, media, etc. as individuals, but may not speak on behalf of the full Working Group; such communication will not be considered Working Group a product. Any correspondence, reports, or other written documents developed on behalf of the full the Working Group that constitutes a “Working Group product” will be shared with the facilitation team for final approval prior to circulating publicly. Public summaries of full Working Group deliberations and outcomes will be made available on the OPC website. Implementation Team summaries will not be posted online.

When corresponding via email, please “reply all” to maintain inclusivity and transparency in all Working Group communications. Participants are expected to abide by ground rules across all forms of communication (see above).

#### **J. Team Roles**

Several agencies and organizations are collaborating to support the implementation of the Working Group. Roles and responsibilities include:

- Ocean Protection Council (OPC)
  - Provide neutral support for Working Group;
  - Maintain online record of Working Group products and summaries; and
  - Print materials for Working Group products.
- California Department of Fish and Wildlife (CDFW)



- Select Working Group participants; and
  - Provide strategic support for Implementation Teams.
- National Marine Fisheries Service (NMFS)
  - Provide strategic support for Working Group and Implementation Teams; and
  - Data review and analysis.
- The Nature Conservancy (TNC)
  - Provide funding for Working Group- fiscal agent; and
  - Provide neutral support for Working Group and Implementation Teams.
- Strategic Earth Consulting
  - Project management and administration for the Working Group and Implementation Teams;
  - Facilitation support for in-person meetings and conference calls; and
  - Development of meeting notes and summaries of key recommendations.